

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

)
 Interconnection and Resale Obligations)
 Pertaining to)
 Commercial Mobile Radio Services)

CC Docket No. 94-54

**CONSOLIDATED RESPONSE OF
 RAM MOBILE DATA USA LIMITED PARTNERSHIP**

RAM Mobile Data USA Limited Partnership ("RMD"), hereby submits this consolidated response to the petitions for reconsideration filed in the above-referenced proceeding.¹

RMD operates SMR systems that provide "interconnected"² mobile data services that do not offer real-time, two-way switched voice service. As such, its systems currently are excluded from the Commission's definition of "covered SMR" systems.³ This exclusion is entirely reasonable. RMD's systems are unlike traditional cellular and broadband PCS systems for which the roaming rules were designed. As a result, RMD's systems do not compete in the same market, nor are they subject to the same competitive concerns, as "covered SMR" systems. Moreover, inclusion of RMD's data-only SMR services within the "covered SMR" definition would lead to nonsensical results in the other proceedings in which the covered SMR definition is being used to determine the applicability of Commission rules.⁴ Consequently, as the Commission properly

¹ RMD herein responds to petitions for reconsideration filed in this proceeding by The American Mobile Telecommunications Association, Inc. ("AMTA") and Nextel Communications, Inc. (Nextel) on September 26, 1996.

² RMD's systems are deemed to be interconnected, however, only because of the Commission's expansive definition of "interconnected service." See In re Implementation of Sections 3(n) and 332 of the Communications Act, 9 FCC Rcd 1411, 1434-35 (1994).

³ The Commission has defined "covered SMR" systems to include 800 MHz and 900 MHz SMR licensees that hold geographic area licenses and incumbent wide area SMR licensees that offer real-time, two-way switched voice service that is interconnected with the public switched network. See In re Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, First Report & Order (rel. July 12, 1996) ("First R&O") ¶ 19. This definition, the Commission explained, was intended to exclude "local SMR systems offering mainly dispatch services to specialized customers in a non-cellular system configuration, as well as licensees offering only data, one-way, or stored voice services on an interconnected basis" because such systems "do not compete substantially with cellular and broadband PCS providers." Id.

⁴ The Commission also is considering the application of its rules regarding number portability (CC Docket No. 95-116), enhanced-911 (CC Docket No. 94-102), CMRS resale (CC Docket No. 94-54), and RF emissions hazards (ET Docket No. 93-62) with respect to "covered SMR" services.

recognizes, the costs of including data-only SMR systems within the "covered SMR" definition would far outweigh the benefits.⁵

The petitions for reconsideration filed in this matter ask the Commission to reconsider its "covered SMR" definition and to amend it to ensure that only SMR systems that operate in a "cellular-like" fashion are encompassed within the scope of the definition. RMD supports these efforts from a policy perspective, but is concerned that the definitions suggested in the original petitions might, inadvertently, cause RMD's systems to be deemed "covered SMR" systems.

AMTA, for example, suggests that only those SMR systems that have an "in-network switching facility" should be deemed to be "covered SMRs."⁶ AMTA posits that it is this "in-network switching" capability that distinguishes cellular-like from non-cellular-like systems. Nextel likewise urges the Commission to modify its "covered SMR" definition to include only "those SMR systems ... using a mobile telephone switching facility."⁷ For the reasons set forth in RMD's comments in the other proceedings in which the "covered SMR" definition is used, RMD opposes both of these approaches. The appropriate inquiry, as the Commission recognizes in the First R&O, is whether a reasonable cost-benefit analysis, based on competitive factors in the market served by the system, supports imposition of a particular requirement.

However, since the filing of the AMTA and Nextel petitions, AMTA has amended its proposed "covered SMR" definition to encompass only those systems offering "real-time, two-way interconnected voice service using multiple base stations and an intelligent in-network switching facility that permits automatic, seamless interconnected call hand-off among base stations."⁸ Although this definition continues to rely on system configuration as a limiting principle, it includes a functional definition of "covered SMR" systems that addresses RMD's concerns regarding AMTA's previously suggested definition.

Accordingly, RMD does not object to AMTA's revised "covered SMR" definition as reflected in the attached *ex parte* submission. In any event, however, RMD urges the

⁵ First R&O ¶ 19.

⁶ AMTA Petition for Reconsideration at 6-7.

⁷ Nextel Petition for Reconsideration at 8.

⁸ See Letter from Elizabeth R. Sachs, counsel to AMTA, to Michele Farquhar, Chief, Wireless Telecommunications Bureau (Nov. 12, 1996), CC Docket No. 94-54 (attached).

Commission to retain a functional approach to its definition of "covered SMR" services and to continue to exclude from that definition data-only SMR systems.

Respectfully submitted,

RAM MOBILE DATA USA
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consolidated Response of RAM Mobile Data USA Limited Partnership was sent by first-class mail, postage prepaid, this 13th day of February, 1997, to each of the following:

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